

Before the year 1732, it was, in general, true, that lands in Maryland were no otherwise liable to be taken or extended in satisfaction of debts than according to the law of England; and prior to that time there are many instances in which lands were so extended by *elegit*. But the peculiar circumstances of the province; the scarcity of money, and the small proportion of personal to real estate seem to have given rise to a wish among the people, that land should, in some way, be made entirely subject to be seized and sold for the satisfaction of debts. This general disposition is indicated by some principles peculiar to our law in relation to imperfect legal titles; to equitable interests in land; and to the real estates of deceased debtors which were established as a part of our code antecedent to that period.

In that interval of time between the designation of a tract of land, by a specification of a special warrant or otherwise, and the obtaining of a patent for it, the purchaser was considered as the holder of an inchoate legal title, a perfectible legal interest regarded as a sort of chattel real, which upon being completed by a patent was deemed a legal title, from the date of such designation, to all intents and purposes. So long as the right remained as a chattel real it was, like all other chattels, liable to be taken in execution and sold for the satisfaction of debts; but a patent, by perfecting the legal title, immediately removed it beyond the reach of creditors in that way. To prevent this any creditor was allowed to file a *caveat* in the Land Office for the express purpose of stopping a patent, and so continuing the interest as a chattel real, and keeping it within reach of his remedies. But this imperfect legal title, although deemed a chattel real for the benefit of creditors, was, in all other respects, considered as real estate; and as such descended to his heirs, and did not pass into the hands of the executor or administrator. Yet where the debtor himself, not having, during his life-time, perfected his title, had died without heirs, a patent was directed to be issued to his executor or administrator to be treated as assets for the satisfaction of his debts and legacies. These were the settled rules of law with regard to any specified tract of land for which an individual had obtained from the Lord Proprietary an imperfect legal title short of a patent. (x)

But such a peculiar chattel real, as it was called, must not be confounded with a mere common warrant, before it had been laid

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(x) Land Hol. Assis. 91, 115, 251 and 494, note.